

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JACK KINER, Derivatively on Behalf of
CONDUENT INCORPORATED,

Plaintiff,

vs.

BRIAN J. WEBB-WALSH, et al.,

Defendants,

– and –

CONDUENT INCORPORATED, a New York
corporation,

Nominal Defendant.

KARIO-PAUL BROWN, Derivatively On
Behalf Of CONDUENT INC.,

Plaintiff,

vs.

ASHOK VEMURI AND BRIAN WEBB-
WALSH,

Defendants,

– and –

CONDUENT INC.,

Nominal Defendant.

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Civil Action No. 1:20-cv-10964

STIPULATION AND [PROPOSED] ORDER
CONSOLIDATING RELATED
DERIVATIVE ACTIONS FOR CERTAIN
PURPOSES, APPOINTING LEAD AND
LIAISON COUNSEL, AND DEFERRING
RESPONSIVE PLEADINGS

Civil Action No. 1:21-cv-00239-MKV

WHEREAS, Jack Kiner and Kario-Paul Brown (together, “Plaintiffs”) commenced factually related stockholder derivative actions on behalf of nominal defendant Conduent Incorporated (“Conduent” or the “Company”) in this Court, captioned: (i) *Kiner v. Webb-Walsh, et al.*, Case No. 1:20-cv-10964-MKV (“*Kiner*”); and (ii) *Brown v. Vemuri, et al.*, Case No. 1:21-cv-00239-MKV (“*Brown*”) (together, the “Related Derivative Actions”);

WHEREAS, the Related Derivative Actions arise out of substantially similar facts and allege substantially similar derivative claims against Brian J. Webb-Walsh and Ashok Vemuri (together, the “Individual Defendants,” and, collectively with Conduent, the “Defendants”);

WHEREAS, Rule 42(a) of the Federal Rules of Civil Procedure provides that when actions involve “a common question of law or fact,” the court may: “(1) join for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay[;]”

WHEREAS, the Related Derivative Actions arise out of the same factual circumstances, challenge similar alleged misconduct by certain current and former directors and executive officers, and involve common questions of law and fact;

WHEREAS, notwithstanding the Related Derivative Actions’ overlapping substantive claims, the *Kiner* and *Brown* actions allege certain different facts and distinct legal theories in support of each stockholder plaintiff’s standing to pursue the substantive claims derivatively on Conduent’s behalf;

WHEREAS, the plaintiff in *Kiner* alleges that he made a litigation demand on Conduent’s Board of Directors (the “Board”), which he contends the Board wrongfully refused;

WHEREAS, the plaintiff in *Brown* alleges facts in support of his contention that pre-suit demand was excused as futile;

WHEREAS, to avoid potentially duplicative effort and to conserve the Court's and the parties' resources, the parties agree that the Related Derivative Actions should be consolidated into a single stockholder derivative action for all purposes other than adjudication of issues of pleading and proof of each plaintiffs' standing to sue derivatively on Conduent's behalf;

WHEREAS, in order to fully realize the efficiencies of consolidation of the Related Derivative Actions, Plaintiffs agree that Robbins LLP and Robbins Geller Rudman & Dowd LLP shall be lead counsel with respect to matters relating to the question of demand refusal ("Demand Lead Counsel"); Rigrodsky Law, P.A. shall be lead counsel with respect to matters relating to demand futility ("Futility Lead Counsel"); and Robbins LLP, Robbins Geller Rudman & Dowd LLP, and Rigrodsky Law, P.A. shall be Plaintiffs' Co-Lead Counsel with respect to all other matters;

WHEREAS, although Defendants agree that the appointment of a lead plaintiff structure would be beneficial and would preserve the parties' and judicial resources, they take no position with respect to the proposed leadership structure for Plaintiffs' counsel. Defendants reserve the right to (i) object to any Plaintiff's standing to assert claims against them in the Related Derivative Actions; and (ii) object to, and move to dismiss on any available grounds, all claims against them in the Related Derivative Actions;

WHEREAS, counsel for the parties agree that the response deadlines for all Defendants shall be deferred until after the Related Derivative Actions have been consolidated, and the parties have met and conferred and presented a proposed case management/scheduling order to the Court for approval; and

WHEREFORE, the parties, through their undersigned counsel, hereby agree, stipulate, and respectfully request that the Court enter an Order as follows:

1. Defendants need not answer, move, or otherwise respond to any of the individual complaints filed in the Related Derivative Actions. Within forty-five (45) days of the entry of an order consolidating the Related Derivative Actions pursuant to this Stipulation, the parties shall meet and confer, and present a proposed case management/scheduling order for the Court's approval.

2. The following actions are hereby related and consolidated into one consolidated action for all purposes other than adjudicating issues of pleading and proof regarding contentions of wrongful demand refusal and demand futility:

<u>Abbreviated Case Name</u>	<u>Case Number</u>	<u>Date Filed</u>
<i>Kiner v. Webb-Walsh, et al.</i>	1:20-cv-10964-MKV	December 28, 2020
<i>Brown v. Vemuri, et al.</i>	1:21-cv-00239-MKV	January 21, 2021

3. Every pleading filed in the Consolidated Derivative Action, or in any other action subsequently included herein, shall bear the following caption:

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE CONDUENT INCORPORATED
STOCKHOLDER DERIVATIVE
LITIGATION

Lead Case No. 1:20-cv-10964-MKV
(Consolidated with No. 1:21-cv-00239-MKV)

This Document Relates To:

ALL ACTIONS.

4. The files of the Consolidated Derivative Action shall be maintained in one file under Master Docket No. 1:20-cv-10964-MKV.

5. Demand Lead Counsel shall be:

ROBBINS LLP
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6. Futility Lead Counsel shall be:

RIGRODSKY LAW, P.A.
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tjm@rl-legal.com
vl@rl-legal.com

7. Demand Lead Counsel and Futility Lead Counsel shall serve as Co-Lead Counsel for Plaintiffs in the Consolidated Derivative Action with respect to all matters, except as set forth herein below.

8. Demand Lead Counsel shall have sole authority to speak for and to bind Plaintiffs in the Consolidated Action and in any related stockholder action as may subsequently be filed in or transferred to this Court with respect to adjudication of contentions of wrongful demand refusal.

9. Futility Lead Counsel shall have sole authority to speak for and to bind Plaintiffs in the Consolidated Action and in any related stockholder action as may subsequently be filed in or transferred to this Court with respect to adjudication of contentions of demand futility.

10. Plaintiffs' Co-Lead Counsel shall have sole authority to speak for and to bind Plaintiffs in the Consolidated Action and in any related stockholder action as may subsequently be filed in or transferred to this Court regarding pre-trial procedure, trial, and settlement, and shall make all work assignments in such manner as to facilitate the orderly and efficient prosecution of this litigation and to avoid unnecessary duplication of effort.

11. Plaintiffs' Co-Lead Counsel shall be responsible for coordinating all activities and appearances on behalf of Plaintiffs. No motion, request for discovery, or other pre-trial or trial proceedings shall be initiated or filed by any plaintiff except through Plaintiffs' Co-Lead Counsel.

12. Defendants' counsel may rely upon all agreements made with any of Plaintiffs' Co-Lead Counsel, or any other duly authorized representative of Co-Plaintiffs' Lead Counsel, and such agreements shall be binding on Plaintiffs in the Consolidated Action and in any related stockholder action as may subsequently be filed in or transferred to this Court.

13. When a case that properly belongs as part of *In re Conduent Incorporated Stockholder Derivative Litigation*, Lead Case No. 1:20-cv-10964-MKV, is hereafter filed in the Court or transferred here from another court, this Court requests the assistance of counsel in calling to the attention of the Clerk of the Court the filing or transfer of any case which might properly be consolidated as part of *In re Conduent Incorporated Stockholder Derivative Litigation*, Lead Case No. 1:20-cv-10964-MKV, and counsel are to assist in ensuring that counsel in subsequent actions receive notice of this Order.

14. Pursuant to Rule 59(b)(2)(E) of the Federal Rules of Civil Procedure, all parties consent to service by email of any document required to be served in the Consolidated Derivative Action.

DATED: February 19, 2021

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/s/ Mark S. Reich

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DATED: February 19, 2021

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*[Proposed] Co-Lead Counsel for Plaintiffs and
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Additional Counsel for Plaintiff Kario-Paul Brown

DATED: February 19, 2021

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ISRAEL DAHAN

/s/ Israel Dahan (with permission)

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*Counsel for Defendants Brian J. Webb-Walsh and
Ashok Vemuri*

DATED: February 19, 2021

CONDUENT INCORPORATED
NICOLE BEARCE

/s/ Nicole Bearce (with permission)

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*Counsel for Nominal Defendant Conduent
Incorporated*

IT IS SO ORDERED.

DATED: _____

THE HONORABLE MARY KAY VYSKOCIL
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on February 19, 2021, I authorized the electronic filing of the foregoing, including all attachments thereto, with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all registered parties.

/s/ Mark S. Reich

MARK S. REICH

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